THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.899 AND 944 OF 2007

DATED 01st FEBRUARY, 2007

Between

Smt. M.Bhagya Laxmi

... Petitioner

AND

The Mandal Revenue Officer, Karimnagar, and others.

.... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.899 AND 944 OF 2007

COMMON ORDER:

The petitioners in both the writ petitions, allegedly, purchased or allotted/assigned Government lands. It is stated that they have been in possession and enjoyment of the same. It is also alleged that they are eking out their livelihood depending on the said lands. The Mandal Revenue Officer, Karimnagar (MRO), first respondent herein, initiated steps for resumption of the lands in accordance with the conditions of assignment. Show cause notices were issued calling upon the petitioners to explain as to why the lands should not be resumed for public purpose. The petitioners submitted explanations stating that they have been depending on the said lands. After considering the explanations submitted by the petitioners, the MRO passed orders on 23.09.2006 ordering resumption of the land for providing house sites to the poor. The MRO also observed that all the petitioners would be paid *ex gratia*/compensation at market value with 30% solatium, and also compensation for trees and structures as per the orders of the High Court. These proceedings of the MRO are assailed in the writ petition.

Learned counsel for the petitioners submits that resumption of land from the petitioners, who were assigned lands, is arbitrary. He also contents that some of the petitioners have raised residential houses, and if the lands are resumed, they will be deprived of their

shelter as well as livelihood. He placed reliance on the interlocutory order, dated 01.12.2006 passed by the Division Bench in W.A.M.P.No.2630 of 2006 in W.A.No.1257 of 2006.

The learned Assistant Government Pleader for Revenue (Assignment) submits that before resuming the land in terms of conditions of assignment, the MRO issued show cause notices, that all the petitioners submitted explanations and that after considering explanations, the impugned orders are passed. Therefore, he would urge that when proper and fair procedure is followed before cancelling the pattas and resuming the land informing the petitioners that they would be paid compensation at the market rate, no interference is called for. He placed strong reliance on the decision of the Full Bench of this Court in **LAO-cum-RDO, Chevella Division, Domalaguda, Hyderabad v Mekala Pandu**[1] and a decision rendered by this Court in **P.Mallaiah v Government of A.P**[2].

The power of judicial review on administrative decisions is restricted to examine the question whether the public authority failed to deal with the issues fairly before arriving at a decision, which adversely burdens the rights of the citizens. The Court is not concerned with the decision itself. In the constitutional Governance, Executive has the power to balance the competing rights and interests before embarking on a programme, which perceives to be in the larger public interest. In the two cases on hand, the land assigned to the petitioners, allegedly three to four decades ago, is resumed for providing house sites to landless and poor homeless persons. The Court cannot sit in Judgment over the good or bad of the programme of distribution of house sites.

The next question would be whether any right of the assignees is violated. It is no gainsaying that the State as a grantor can always deprive the grantee of the benefit of the land. When the land is assigned as a grant by the State, whether or not there is a condition in the terms of grant, the State can always resume the land from the grantee subject to the conditions contained in the order of grant (**Calcutta, South Satara v L.M.Deshpande**[3] and **S.V.V.S.V.Wadia v State of Sourashtra**[4]). In fact the question of payment of

compensation to the assignees, whose land is resumed by the Government, was considered by this Court. The three Full Benches of this Court in **State of A.P. v P.Peda Chinnayya**[5], **State of A.P. v Bondapalli Sanyasi**[6] and **Mekala Pandu** (supra) have recognised the principle that the State,which assigns the land can always resume the land for public purpose. The question, whether the claimants are entitled to payment of compensation under the provisions of Land Acquisition Act, 1894 when the assigned lands are resumed by the Government for public purpose, was considered in **Mekala Pandu** (supra).

In **Mekala Pandu** (supra) while overruling **Bondapalli Sanyasi** (supra) held:

> In the circumstances, we hold that the assignees of the Government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on part with full owners of the land even in cases where the assigned lands are taken possession of by the State in accordance with the terms of grant or patta, though such resumption is for a public purpose. We further hold that even in case where the State does not invoke the covenant of the grant or patta to resume the land for such public purpose and resorts to acquisition of the land under the provisions of the Land Acquisition Act, 1894, the assignees shall be entitled to compensation as owners of the land and for all other consequential benefits under the provisions of the Land Acquisition Act, 1894. No condition incorporated in patta/deed of assignment shall operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land.

The impugned order in these cases informs the petitioners that they would be paid *ex gratia*/compenstion at market value with 30% solatium. Therefore, the action of the respondents in issuing the impugned order whereunder assignment is cancelled and the land is resumed is in accordance with law laid down by the Full Bench of this Court in **Mekala Pandu** (supra). This needs little clarification in view of the decision of the **Mekala Pandu** (supra).

It is brought to the notice that feeling aggrieved by **Mekala Pandu** (supra), the State preferred an appeal before the Supreme Court and obtained interim order of stay of further payment of compensation. Therefore,

though the petitioner is entitled to claim compensation as per the provisions of the Land Acquisition Act including solatium, additional compensation and interest, the Mandamus that shall issue to that effect shall be enforceable subject to the Judgment of the Supreme Court in appeal filed against **Mekala Pandu** (supra).

Learned counsel for the petitioners brought to the notice of this Court the interlocutory order passed by the Division Bench of this Court in W.A.M.P.No.2630 of 2006 in W.A.No.1257 of 2006. The writ petitions are being dismissed following the three Full Bench decisions of this Court referred to hereinabove and therefore, the interlocutory order relied on by the counsel is of no assistance. The writ petitions are accordingly dismissed as devoid of any merit. There shall be no order as to costs.

(V.V.S.RAO,J)

01.02.2007.
pln

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[1] 2004 (2) ALD 451 (FB of Seven Judges)
[2] 2006 (3) ALD 148
[3] AIR 1964 SC 326
[4] AIR 1967 SC 340
[5] 1996 (2) ALD 1215 = 1997 (1) ALT 498 (FB of Three Judges)
[6] 2002 (2) ALD 1 = 2002 (1) ALT 543 (LB of Five Judges)